

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **VICE-CHAIRMAN JOHN COBB**, on February 24, 2003
at 8:05 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edith Clark, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp refers to material below it.

Committee Business Summary:

Hearing & Date Posted: HB 705, 2/20/2003
Executive Action: HB 705; Language in Bills; Other
Issues

HEARING ON HB 705***{Tape: 1; Side: A; Approx. Time Counter: 1.2 - 4.5}*****Opening Statement by Sponsor:**

REP. CLARK presented HB 705, a nursing home user fee increase. The current fee is \$2.80 per day, and HB 705 will increase the fee over the next biennium in order to fund rate increases for nursing homes. She reviewed the key provisions and restrictions of the bill. The purpose of the original nursing home user fee in 1991 was to relieve privately paying individuals in nursing homes from the burden of costs shifted from the Medicaid program and for maximizing federal funding for this program. Increasing the fee and using it for rate increases to nursing homes is consistent with the purpose for which the fee was originally created.

EXHIBIT(jhh41a01)**Proponents' Testimony:*****{Tape: 1; Side: A; Approx. Time Counter: 4.5 - 23.5}***

Rose Hughes, Montana Healthcare Association, provided background on the user fee and how the increased amounts were calculated. She reviewed information on the payment sources, the use of user fees and IGT money and how it has helped keep the state portion of funding for these programs down. She said that nursing homes are looking to a combination of the user fee and IGT funds to help bring them close to the cost of providing care. Since 1991 they have recognized that this type of mechanism is available as a last resort. As a result of the increased fees, nursing homes will have paid \$9 million into the system by FY04 and \$11 million by FY05. Nursing homes have been part of the solution for helping the state out of general fund problems, and this is a solution which is true to the original intent of the user fee. Nursing homes believe that it will help facilities to continue to provide quality care to residents.

EXHIBIT(jhh41a02)***{Tape: 1; Side: A; Approx. Time Counter: 23.5 - 26.5}***

Mary Williams, Capitol City Association of Retired Persons (AARP), testified that the Capitol City AARP supports the increase in the nursing home user fee. Montana must try to come as close as possible to reimburse nursing home Medicaid costs in order to maintain quality of care in Montana.

EXHIBIT(jhh41a03)

{Tape: 1; Side: A; Approx. Time Counter: 26.5 - 29.5}

Ray Hoffman, PEAK Medical Montana, testified that long-term care has experienced inordinate increases in costs, particularly with regard to staffing and shortages of nurses. There is no indication that these increases will cease. He said that this bill will help nursing home solvency.

{Tape: 1; Side: A; Approx. Time Counter: 29.5 - 31.3}

Bob Olsen, Montana Hospital Association (MHA), offered solid support of MHA for the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

{Tape: 1; Side: A; Approx. Time Counter: 31.3 - 33.4}

Closing by Sponsor: **REP. CLARK** stated that nursing home revenue and Medicaid rates are down \$15 per day below cost. Sixty percent of the total population of nursing homes is Medicaid eligible. Medicare reimbursement can help balance this, but Medicare reimbursement is down \$30 per day. Nursing homes cannot continue to provide care without this bill.

VICE-CHAIRMAN COBB closed the hearing on HB 705.

EXECUTIVE ACTION ON HB 705

{Tape: 1; Side: A; Approx. Time Counter: 33.4 - 34}

Motion/Vote: **SEN. STONINGTON** moved that HB 705 BE RECOMMENDED AS DO PASS. Motion carried 5-0 on a voice vote. The proxy for **REP. HAINES** was not voted.

{Tape: 1; Side: A; Approx. Time Counter: 34 - 35}

SEN. STONINGTON said that she had heard that the National Governor's Association was meeting with the President today, and that the major topic was Medicaid. She asked **Gail Gray, Director of DPHHS**, what the context of the discussions was. **Director Gray** said that they know that there will be a push to assist the states with the Federal Medicaid Assessment Participation (FMAP) rate. They will request more information on the Medicaid proposals for change. It comes down to increased need, increased costs to states, and the need for the federal government to step up and pay more.

{Tape: 1; Side: A; Approx. Time Counter: 35 - 49.5}

Lois Steinbeck, Legislative Fiscal Division (LFD), distributed information regarding the issues that the Subcommittee needed to wrap up. She reviewed the contingency language for a bill to establish a state special revenue (SSR) account for prevention and stabilization account in DPHHS on Page 3 of Exhibit 4. Responding to questions from Subcommittee members, she noted that the language in the top example was broader and that they would need to have at least one subcommittee bill which established the SSR. She stated that the money to be moved into the account would need to be earmarked for it.

EXHIBIT(jhh41a04)

EXECUTIVE ACTION ON LANGUAGE

{Tape: 1; Side: B; Approx. Time Counter: 0.3 - 2.5}

Ms. Steinbeck reviewed the language creating the Health and Human Services Payment Account SSR in the Intensive Care Facility for the Mentally Retarded (ICF/MR) bill. She said that they need one bill to create the SSR account, and the rest of the subcommittee bills need to dump money into it.

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 3.7}

Motion/Vote: SEN. STONINGTON moved THAT THE ITEMS ON THE LIST ARE CONTINGENT ON PASSAGE AND APPROVAL OF A BILL OR BILLS THAT ESTABLISH A STATE SPECIAL REVENUE ACCOUNT FOR PREVENTION AND STABILIZATION OF DEPARTMENT PROGRAMS THAT RECEIVES AT LEAST \$32 MILLION OF ESTIMATED REVENUES EACH YEAR OF THE 2005 BIENNIUM FROM CIGARETTE AND CHEW TOBACCO TAXES, REALLOCATION OF TOBACCO SETTLEMENT PROCEEDS ALLOCATED BY 17-6-602, AND OTHER SOURCES. Motion carried 5-0 on a voice vote. The proxy for REP. HAINES was not voted.

{Tape: 1; Side: B; Approx. Time Counter: 3.7 - 8}

Referring the Subcommittee to Page 4 of Exhibit 4, **Ms. Steinbeck** explained that this is language requested by the Subcommittee which would line item tobacco control prevention funding, about \$4.1 million total funds each year of the biennium. She reviewed the two alternatives for tobacco prevention control funding for American Indian reservations. She suggested that if they preferred alternative two they may wish to add the second paragraph of alternative one to it. She added that Legislative Fiscal Division Legal Counsel had reviewed the language, and it is all legal.

REP. JAYNE asked what had precipitated this language, and **SEN. COBB** responded that he used this amount since those on reservations have the greatest incidence of smoking. He did not

think he could get \$100,000 passed, but did want to ensure that at least this \$80,000 minimum got to the tribes. This funding would come from the 32 percent of the tobacco prevention and control portion of tobacco settlement money.

{Tape: 1; Side: B; Approx. Time Counter: 8 - 11.9}

In discussion of the allocation of funds from I-146, **Ms.**

Steinbeck explained that this is not necessarily an implied amendment to the statute, but it is a condition on the appropriation established in HB 2. It is not a statutory amendment, but the SSR is created in statute and the uses for the money are specified in statute. The appropriation must be made through HB 2. There was a suggestion by several Subcommittee members that there was a board which would allocate the funds.

Bob Andersen, Office of Budget and Program Planning (OBPP), said that the board just gives advice; it is the Department that allocates the money.

{Tape: 1; Side: B; Approx. Time Counter: 11.9 - 13.6}

Director Gray said Native Americans were one of the special populations that were to receive special attention so they do not have problems with the language. She said that this was based on the assumption that there would be \$3 million or \$3.7 million. If there is only \$500,000, then it will not balance.

{Tape: 1; Side: B; Approx. Time Counter: 13.6 - 21}

Responding to a question from **REP. JAYNE**, **Ms. Steinbeck** said that the Subcommittee had appropriated \$4.1 million each year of the biennium for tobacco control and prevention. **Ms. Steinbeck** reviewed the appropriation: the Subcommittee appropriated \$3.2 million out of I-146 tobacco funds, which includes the \$500,000 in the Executive Budget; and it added to this \$875,000 in federal funds, which comes to a total of \$4.1 million per year.

{Tape: 1; Side: B; Approx. Time Counter: 21 - 26.6}

Motion: SEN. COBB moved TO ACCEPT LANGUAGE, WHICH SAYS THAT TOBACCO CONTROL AND PREVENTION INCLUDES AT LEAST \$80,000 FOR EACH FEDERALLY RECOGNIZED TRIBE WITHIN MONTANA IN ACCORDANCE WITH 17-6-602(3)(B)(II) THAT SUBMITS AND ADMINISTERS A TOBACCO PREVENTION AND CONTROL PROGRAM THAT MEETS THE CONDITIONS REQUIRED OF ALL COMMUNITY-BASED CONTRACTORS. IF TOBACCO PREVENTION AND CONTROL FUNDS GRANTED TO A FEDERALLY RECOGNIZED TRIBE ARE NOT FULLY EXPENDED BY THE INDIVIDUAL GRANTEE WITHIN THE CONTRACT PERIOD, THESE FUNDS MAY BE REALLOCATED FOR OTHER TOBACCO USE PREVENTION PURPOSES.

Discussion:

REP. JAYNE asked about the need on reservations, and **Director Gray** said that tobacco use and associated health problems are significantly greater on the reservations than in the general populace. **REP. JAYNE** suggested that \$80,000 was not much considering the \$4.1 million total in tobacco control and prevention funds. **Director Gray** said that this funding would go to the eight recognized tribes and reservations, but that there would be some native Americans off the reservation who would not be covered by this alternative.

There was an implied withdrawal of the previous motion by **SEN. COBB**.

{Tape: 1; Side: B; Approx. Time Counter: 26.2 - 35.8}

Motion: **SEN. COBB** moved TO ACCEPT THE LANGUAGE, WHICH SAYS THAT TOBACCO CONTROL AND PREVENTION INCLUDES AT LEAST \$100,000 FOR EACH FEDERALLY RECOGNIZED TRIBE WITHIN MONTANA IN ACCORDANCE WITH 17-6-602(3)(B)(II) THAT SUBMITS AND ADMINISTERS A TOBACCO PREVENTION AND CONTROL PROGRAM THAT MEETS THE CONDITIONS REQUIRED OF ALL COMMUNITY-BASED CONTRACTORS. IF TOBACCO PREVENTION AND CONTROL FUNDS GRANTED TO A FEDERALLY RECOGNIZED TRIBE ARE NOT FULLY EXPENDED BY THE INDIVIDUAL GRANTEE WITHIN THE CONTRACT PERIOD, THESE FUNDS MAY BE REALLOCATED FOR OTHER TOBACCO USE PREVENTION PURPOSES.

Discussion:

CHAIRMAN CLARK and **SEN. STONINGTON** said that \$100,000 was way too much. They need to give the advisory committee some leeway on this. **Pat Gervais (LFD)**, said that there are eight federally recognized tribes in Montana, including the landless Little Shell, and if each received \$80,000 per year, that would be \$640,000 per year for the tribes. **REP. JAYNE** said that they are looking at \$8 million and the Department has statistics which say there is a greater need on the reservations. It is an issue of fairness. In continued discussion, **SEN. STONINGTON** calculated that if 4 percent of the total population of Montana lives on reservations, and they allocate \$640,000 per year they would be allocating proportionately three times as much for reservations as for anyone else in the state. **REP. JAYNE** commented that they do not have all of the facts or accurate figures to vote on this. **CHAIRMAN CLARK** said that they could also not delegate any money for this.

SEN. COBB suggested that they first vote to see if they could get \$100,000 and then vote on \$80,000

{Tape: 1; Side: B; Approx. Time Counter: 35.8 - 36.4}

Vote: Motion failed 2-3 with SEN. COBB and REP. JAYNE voting aye on a voice vote. The proxy for REP. HAINES was not voted.

{Tape: 1; Side: B; Approx. Time Counter: 36.4 - 38}

Motion: SEN. COBB moved TO ACCEPT THE LANGUAGE, WHICH SAYS THAT TOBACCO CONTROL AND PREVENTION INCLUDES AT LEAST \$80,000 FOR EACH FEDERALLY RECOGNIZED TRIBE WITHIN MONTANA IN ACCORDANCE WITH 17-6-602(3)(B)(II) THAT SUBMITS AND ADMINISTERS A TOBACCO PREVENTION AND CONTROL PROGRAM THAT MEETS THE CONDITIONS REQUIRED OF ALL COMMUNITY-BASED CONTRACTORS. IF TOBACCO PREVENTION AND CONTROL FUNDS GRANTED TO A FEDERALLY RECOGNIZED TRIBE ARE NOT FULLY EXPENDED BY THE INDIVIDUAL GRANTEE WITHIN THE CONTRACT PERIOD, THESE FUNDS MAY BE REALLOCATED FOR OTHER TOBACCO USE PREVENTION PURPOSES.

Discussion:

REP. JAYNE spoke on a point of personal privilege, saying that CHAIRMAN CLARK was out of order in saying that they would have \$80,000 or none. CHAIRMAN CLARK said that it had not been her intent to say that there would be none, but that she had meant that there were three choices. SEN. STONINGTON added that she had interpreted CHAIRMAN CLARK's statement to mean that, for Subcommittee actions in stipulating the use of the funds, the choices are to vote for \$100,000 per year, \$80,000 per year, or to not take action. CHAIRMAN CLARK said that such was her intent.

{Tape: 1; Side: B; Approx. Time Counter: 39.4 - 39.6}

Vote: Motion carried 5-0 on a voice vote. The proxy for REP. HAINES was not voted.

{Tape: 1; Side: B; Approx. Time Counter: 39.7 - 49.5}

Ms. Steinbeck referred to language in HB 2 adopted by the 2001 Subcommittee in Exhibit 4, and asked them to consider how they would want to use the five percent intergovernmental transfer (IGT) fee. No matter what that resolution is, she asked them to consider for future action if they would also want to include language which says "funds and one-time payments to nursing home services (they could also include hospitals and mental health providers as well) may be used to make one-time payments to nursing homes based on the number of Medicaid services provided." She continued that the Subcommittee had adopted two rate increases that were not in the Executive Budget, one for direct care workers for Senior and Long Term Care (SLTC) for community-based services because their direct-care worker wage increase was withheld this last fiscal year. She then asked if they would

also like to include similar language for the therapeutic group home rate increases that it funded.

Ms. Gervais distributed a summary of decision packages (Exhibit 5) adopted by the Subcommittee which add general fund to the Department budget. She also explained the spreadsheet (Exhibit 6) which summarizes the general fund decision packages and the items funded by the Prevention and Stabilization Account (PSA) adopted by the Subcommittee.

EXHIBIT (jhh41a05)

EXHIBIT (jhh41a06)

{Tape: 2; Side: A; Approx. Time Counter: 0.5 - 5.5}

Referring to the \$32 million in the contingency language for the PSA, **SEN. STONINGTON** asked for the background on the amount and whether it is appropriated per year. **Ms. Steinbeck** said that the total amount which is expected to be appropriated from the SSR per biennium is \$61.6 million, and that the language does specify \$32 million per year.

Referring to Exhibit 6 and the first box on the sheet which shows a reduction of \$185,374, **Ms. Steinbeck** indicated the Subcommittee voted to not accept the general fund reduction from the public health lab. This item was later included on one of the summary sheets to be funded from the PSA account, she asked if they would like to fund it from general fund or the PSA account. **CHAIRMAN CLARK** said that she did not want it left out there in the PSA, but would rather it be funded by general fund.

EXECUTIVE ACTION ON REMAINING ISSUES

{Tape: 2; Side: A; Approx. Time Counter: 3.2 - 4}

Motion/Vote: **SEN. COBB** moved TO FUND DP 247, PUBLIC HEALTH LAB OUT OF GENERAL FUND. Motion carried 4-1 with **KEENAN** voting no on a voice vote. The proxy for **REP. HAINES** was not voted.

{Tape: 2; Side: A; Approx. Time Counter: 4 - 6.7}

Ms. Steinbeck continued that they had voted to not accept the Farmer's Market Women, Infants and Children (WIC) reduction and asked what funding source they would like to use for this.

{Tape: 2; Side: A; Approx. Time Counter: 6.7 - 7}

Motion/Vote: **SEN. STONINGTON** moved TO FUND THE FARMER'S MARKET WIC AND MATCH FROM THE PSA. Motion carried 5-0 on a voice vote. The proxy for **REP. HAINES** was not voted.

No motion was made on DP 993.

{Tape: 2; Side: A; Approx. Time Counter: 10.1 - 11.4}

Motion/Vote: SEN. STONINGTON moved TO ADD \$14,251 PER YEAR OUT OF THE PSA TO THE MIAMI PROGRAM. Motion carried 5-0. The proxy for REP. HAINES was not voted.

EXHIBIT (jhh41a07)

{Tape: 2; Side: A; Approx. Time Counter: 11.4 - 14.6}

Ms. Steinbeck explained that the Medicaid Caseload Buy-In is an increase in premium payments anticipated for Medicare Part A and Part B insurance. The Department opts to buy this for dual eligible individuals in order to minimize Medicaid costs; it has figured this into its budget.

{Tape: 2; Side: A; Approx. Time Counter: 14.6 - 14.8}

Motion/Vote: SEN. COBB moved THE MEDICAID BUY-IN FOR MEDICARE CASELOAD INCREASE. Motion carried 5-0 on a voice vote. The proxy for REP. HAINES was not voted.

In explanation of Item 5 on Exhibit 4, **Ms. Gervais** directed the Subcommittee to look at Exhibit 6 and said that the PSA has about \$8.8 million FY04 and \$9.9 million in FY05 that have been specified to offset items in the general fund budget. Initiatives for funding out of the PSA account total about \$6.8 million FY04 and \$8.7 million in FY05. There is an additional funding switch needed between the PSA and the general fund to reflect a general fund budget of \$251 million. If it is the Subcommittee's wish to reflect this amount as the general fund budget for the agency, they would need to offset an additional \$10.8 million in FY04 and \$16 million in FY05 of general fund costs with PSA funding, subject to adjustments. **Ms. Steinbeck** added that this has already been specified as an across-the-board general fund reduction funding switch. Should they want to allocate further the general fund reductions that will be funded by PSA, there will need to be additional line items in the bill, otherwise, this will be left to the Department's discretion. Options are indicated in Exhibit 4 under 5(c)(i).

{Tape: 2; Side: A; Approx. Time Counter: 20.2 - 21.3}

John Chappuis, Deputy Director of DPHHS, suggested that they would perhaps like it to go to SLTC, Health Policy Services Division (HPSD), or Addictive and Mental Disorders Division (AMDD).

{Tape: 2; Side: A; Approx. Time Counter: 21.3 - 23.8}

Motion/Vote: SEN. COBB moved TO ALLOCATE THE FUND SWITCH ACROSS MEDICAID BENEFIT EXPENDITURES OR MEDICAID EXPENDITURES FOR PRIMARY CARE, MENTAL HEALTH, NURSING HOMES, AND DEVELOPMENTAL DISABILITIES. Motion carried 5-0 on a voice vote. The proxy for REP. HAINES was not voted.

Ms. Steinbeck said that LFD staff will include a table in the agency narrative accompanying HB 2 which will indicate all the actions of today.

{Tape: 2; Side: A; Approx. Time Counter: 23.8 - 32.7}

Ms. Steinbeck said that she had looked at alternatives to the nursing home IGT surcharge. Referring to Exhibit 8, she said that, at 85 percent of the IGT sources, the nursing home IGT is the largest in FY05, thus, any fee levied on IGT will have the most significant impact to nursing homes. She explained that an IGT pays dollars above the state Medicaid rate by receiving county funds. A payment comes in to the state which can be altered or allocated to collect the fee. She cited the example of the school services refinance. Federal money is passed through DPHHS to schools at the Medicaid rate. **Ms. Steinbeck** said that she does not believe it is legal to divert part of the Medicaid payment for a Medicaid service when there is nothing coming to the Department from the schools. She said that she did not think it was possible for refinancing fee to be imposed on the school transfer. **Mr. Chappuis** said that it cannot be done. **Ms. Steinbeck** continued that unless there is a payment above the state Medicaid rate that can be leveraged, if they are simply reimbursing Medicaid costs at the state Medicaid rate, she does not know how they could legally withhold funds. She concluded that unless it is something like an IGT she does not know how such a payment could be levied.

EXHIBIT (jhh41a08)

{Tape: 2; Side: A; Approx. Time Counter: 32.7 - 34.2}

SEN. COBB said that the Subcommittee needs about \$800,000 per year to make the Department budget work, and he does not care how they get it.

{Tape: 2; Side: A; Approx. Time Counter: 34.2 - 38.53}

Ms. Hughes said that, if the goal of the fee on IGT is to get the \$800,000, and it is mainly applied to nursing homes, she would prefer a clean transaction in which they would take \$800,000 of the IGT money and devote it the cause. **Kelly Williams, Administrator of SLTC**, agreed with this suggestion.

{Tape: 2; Side: A; Approx. Time Counter: 38.5 - 42.5}

Ms. Steinbeck referred to the language at the top of last page of Exhibit 4 as a vehicle to do this. She said that they would need to say that "the state special revenue and the one-time payments to nursing homes could be expended only after OBPP certified that the Department has received the amount of money each year from counties participating in the IGT" and budget that in the base of the nursing home program as it was in Mental Health as a direct general fund offset. This is the only way to do this unless they pass a subcommittee bill implementing this and putting in SSR. The transfer to the PSA can not be done through language in HB 2, which would be an implied amendment to statute.

{Tape: 2; Side: A; Approx. Time Counter: 42.5 - 43.5}

Director Gray and **Mr. Chappuis** suggested that they use \$1 million as the amount and that it should be designated.

{Tape: 2; Side: A; Approx. Time Counter: 43.5 - 45.5}

Motion: SEN. COBB moved THAT FUNDS IN ONE-TIME PAYMENTS TO NURSING HOMES FOR MEDICAID SERVICES MAY BE USED ONLY TO MAKE ON-TIME PAYMENTS TO NURSING HOMES BASED ON THE NUMBER OF MEDICAID SERVICES PROVIDED. STATE SPECIAL REVENUE IN IGT MAY BE EXPENDED ONLY AFTER THE OFFICE OF BUDGET AND PROGRAM PLANNING HAS CERTIFIED THAT THE DEPARTMENT HAS RECEIVED \$1 MILLION EACH YEAR FROM COUNTIES PARTICIPATING IN THE IGT PROGRAM FOR NURSING HOMES.

{Tape: 2; Side: B; Approx. Time Counter: 1.1 - 2.6}

Discussion:

Ms. Steinbeck said that it was necessary to specify where the money will go because otherwise it will just be sitting out there or deposited to the general fund as revenue. She said that last session it was used to save general fund in Mental Health Services. **REP. JAYNE** asked what effect the \$1 million would have in terms of services. **Ms. Steinbeck** said that in the last biennium \$2 million was taken off the top of the IGT and not returned to counties. Under the proposed action, \$1 million will be taken off the top and not returned to counties. Of the remaining \$1 million, \$600,000 is budgeted to backfill the rate decrease in the Executive Budget. This will hold all nursing homes harmless from the rate decrease included in the Executive Budget.

{Tape: 2; Side: B; Approx. Time Counter: 2.6 - 3}

Vote: Motion carried 5-0 on a voice vote. The proxy for **REP. HAINES** was not voted.

{Tape: 2; Side: B; Approx. Time Counter: 2.3 - 7.7}

There was discussion on where this money should be specified to go. It was suggested that it go to Mental Health Services pharmacy, backfilling children's services, or that it should go into a matching area, otherwise there is no point to an IGT. The Subcommittee suggested that it go into Medicaid, and **Mr.**

Chappuis recommended that it go into the Children's Mental Health Plan to restore cuts made in the foster care group home arena.

Ms. Steinbeck said that it is not new money, but a straight funding shift of general fund. She added that nursing homes did not like that the money had been used for other purposes. It was suggested that it should go to nursing homes, but **Ms. Hughes** said that this would create a bigger problem for nursing homes, and they would not like it. In the end, it was decided to put it toward SLTC and personal care services.

{Tape: 2; Side: B; Approx. Time Counter: 7.7 - 8}

Motion/Vote: SEN. COBB moved THE \$1 MILLION IN NURSING HOME IGT TO SENIOR AND LONG TERM CARE FOR PERSONAL CARE SERVICES. Motion carried 6-0 on a voice vote. REP. CLARK voted proxies for REP. HAINES and SEN. KEENAN.

{Tape: 2; Side: B; Approx. Time Counter: 12.5 - 12.7}

Motion/Vote: SEN. COBB moved that THE DEPARTMENT SHALL DISTRIBUTE FUNDS IN DIRECT CARE WORKER WAGE INCREASES IN A WAY THAT PROVIDES REASONABLE ASSURANCE THAT THE FUNDS ARE USED SOLELY FOR DIRECT CARE WAGE AND BENEFIT INCREASES. NOT ALL PROVIDERS OR TYPES OF DIRECT CARE WORKERS MUST RECEIVE THE SAME RATE INCREASE FOR THE BIENNIUM. FUNDS APPROPRIATED IN DIRECT CARE WORKER WAGE INCREASES MAY BE USED ONLY FOR DIRECT CARE WORKER WAGE INCREASES. FUNDS IN DIRECT CARE WORKER WAGE INCREASES MAY NOT BE USED TO FUND OTHER PROGRAMS. Motion carried 6-0 on a voice vote. REP. CLARK voted proxies for REP. HAINES and SEN. KEENAN.

{Tape: 2; Side: B; Approx. Time Counter: 12.7 - 13}

Motion/Vote: SEN. COBB moved that THE DEPARTMENT SHALL DISTRIBUTE FUNDS IN THERAPEUTIC GROUP HOME WAGE INCREASES IN A WAY THAT PROVIDES REASONABLE ASSURANCE THAT THE FUNDS ARE USED SOLELY FOR THERAPEUTIC GROUP HOME WAGE AND BENEFIT INCREASES. NOT ALL PROVIDERS OR TYPES OF THERAPEUTIC GROUP HOME WAGE INCREASES MUST RECEIVE THE SAME RATE INCREASE FOR THE BIENNIUM. FUNDS APPROPRIATED IN THERAPEUTIC GROUP HOME WAGE INCREASES MAY BE USED ONLY FOR THERAPEUTIC GROUP HOME WAGE INCREASES. FUNDS IN THERAPEUTIC GROUP HOME WAGE INCREASES MAY NOT BE USED TO FUND OTHER PROGRAMS. Motion carried 6-0 on a voice vote. REP. CLARK voted proxies for REP. HAINES and SEN. KEENAN.

{Tape: 2; Side: B; Approx. Time Counter: 14.4 - 18.2}

Ms. Gervais explained that the Subcommittee had adopted the funding proposal presented by the Disability Services Division (DSD) which shifts funds to facilitate the change in mission of the Eastmont facility. It was unclear in that motion if the Subcommittee wished staff to reduce the associated FTE. The total FTE at the two facilities in FY04 would be 359.32 for a reduction of 60 FTE, and in FY05, it would be 327.32 for a reduction of 92.27. **Ms. Gervais** recommended that they make a motion which will clarify that they do want to reduce the FTE to 359.32 in FY04 and 327.32 in FY05 and that staff should adjust the contingency language to reflect the correct FTE levels in the event HB 727, the change of mission of Eastmont bill, does not pass. The language currently indicates there will be an additional 20 FTE, if the Subcommittee reduces the FTE, it would need to reinstate more than 20 FTE if the bill did not pass.

{Tape: 2; Side: B; Approx. Time Counter: 20.5 - 21.4}

Motion/Vote: SEN. COBB moved TO CUT THE FTE LEVELS TO REFLECT EASTMONT CLOSURE CONTINGENT ON PASSAGE OF HB 727 PASSING. Motion carried 6-0 on a voice vote. REP. CLARK voted proxies for REP. HAINES and SEN. KEENAN.

{Tape: 2; Side: B; Approx. Time Counter: 21.4 - 24.5}

Mr. Chappuis stated that when Eastmont closes there will be an increase in beds at some of the group homes which will mean a general fund increase in Social Security Insurance (SSI) of \$7,452 in FY04 and \$7,488 in FY05 for SLTC.

{Tape: 2; Side: B; Approx. Time Counter: 24.5 - 25.4}

Motion/Vote: SEN. COBB moved \$7,452 FY04 AND \$7,488 FY05 TO COVER INCREASED BEDS IN GROUP HOMES CONTINGENT ON PASSAGE OF HB 727. Motion carried 6-0 on a voice vote. REP. CLARK voted proxies for REP. HAINES and SEN. KEENAN.

{Tape: 2; Side: B; Approx. Time Counter: 25.4 - 48}

Referring to the second page of Exhibit 4, **Ms. Steinbeck** said that this is a list of subcommittee bills requested by this Subcommittee. She said that HB 727 and LC 2154 establish bed taxes for MDC, Eastmont, and the Nursing Care Center and need an appropriation from the general fund. She recommended an appropriation in the bills so that those considering the bills can see that there is no net impact to the general fund. One of the bills went forward without an appropriation, and will need an amendment. The other will have an appropriation in the draft.

On the issue of unconstitutional delegation of legislative authority with regard to DSD, she said that LFD staff has been

unable to obtain a legal review at this time. The statute is very broad with respect to the Department funding benefits and services; there is no financial criteria, severity of disability, or language basing services on the amount of money available. They should have the review soon, and when they do get it, they may need a bill to implement the appropriations act since the Subcommittee has established a floor for the appropriations and the Department may not have legal authority to limit services under the language. She suggested that they may need to reconvene at that time.

The Subcommittee wrapped up with some discussion on other subcommittee bills, how they will be appropriated, and who will make the decisions on them.

Director Gray asked for clarification of Subcommittee intent with regard to the allocation of the unallocated fund switches as listed in Exhibit 4 (5)(c). She said that the Department assumption is that when it is allocated the Department will go back and fix it to where it belongs. **Ms. Steinbeck** asked for confirmation that Subcommittee intent was that they would adjust the PSA amount to get the general fund to the \$251 million plus level and allocate it. She said that they would put this in an official memo and work closely with the Department and OBPP before it is finalized.

{Tape: 2; Side: B; Approx. Time Counter: 48 - 51.5}

CHAIRMAN CLARK thanked the members of the Department, staff, secretary, and Subcommittee for their hard work, and **Director Gray** thanked **CHAIRMAN CLARK** for her support in this most difficult Subcommittee.

The Legislative Fiscal Division Budget Analysis was submitted.

EXHIBIT (jhh41a09)

ADJOURNMENT

Adjournment: 10:10 A.M.

REP. EDITH CLARK, Chairman

SYDNEY TABER, Secretary

EC/ST

EXHIBIT (jhh41aad)